

Steven T. Wax, OSB No. 85012
Federal Public Defender
101 SW Main Street, Suite 1700
Portland, OR 97204
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Fax: (503) 326-5524
Email: steve_wax@fd.org

RECV'10 JUL 2 14:30:00 DCC:OPP

Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORLAND DIVISION

**STEVEN T. WAX,
FEDERAL PUBLIC DEFENDER,
FOR THE DISTRICT OF OREGON,**

Plaintiff,

v.

**UNITED STATES DEPARTMENT OF
STATE, HILLARY CLINTON,
SECRETARY OF STATE,**

Defendant.

CV '10 - 768 PK

**COMPLAINT FOR INJUNCTIVE
RELIEF**

FREEDOM OF INFORMATION ACT

1. This is an action under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, challenging the failure of the Department of State to provide plaintiff with records relevant to issues involved in the criminal prosecution of Pirouz Sedaghaty (aka Pete Seda).

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B), 5 U.S.C. § 552(a)(6)(C)(i), 5 U.S.C. § 552(a)(6)(E)(iii), and 28 U.S.C. § 1331.

3. Venue properly vests in this Court pursuant to 5 U.S.C. § 552(a)(4)(B).

4. Plaintiff has constructively exhausted administrative remedies pursuant to U.S.C. § 552(a)(6)(C)(i).

5. Plaintiff, Steven T. Wax, Federal Public Defender, District of Oregon provides criminal defense to individuals charged with federal crimes, and is the requester of the records which defendant is now withholding. Plaintiff is representing Pirouz Sedaghaty against charges of conspiracy to defraud the United States Government. If convicted, Mr. Sedaghaty faces up to eight years in prison. The trial is set for August 30, 2010.

6. Plaintiff has reason to believe that the requested records are directly relevant to issues involved in the defense of Mr. Sedaghaty, including materials that are directly exculpatory, and prompt release of the information is essential in order for Mr. Sedaghaty to receive a fair trial.

7. Defendant, Hillary Clinton, Secretary of State, is the head of the United States Department of State, an agency of the United States, and has possession of the documents that plaintiff seeks.

8. The Freedom of Information Act (FOIA) requires agencies of the federal government, upon request, to release information to the public unless one of nine specific statutory exemptions applies.

9. Upon receiving a FOIA request, an agency has twenty working days to respond. 5 U.S.C. § 552(a)(6)(A)(i). Although this time limit may be extended by ten days

if unusual circumstances are present, FOIA does not permit an agency to delay indefinitely.

U.S.C. § 552(a)(6)(B).

10. By letter dated March 10, 2010, plaintiff requested access to records related to Mr. Sedaghaty, Al Haramain, and other individuals linked to this case. A copy of this letter is attached as Exhibit 1.

11. By letter dated April 6, 2010, plaintiff sent a letter to defendant requesting information on the status of the request. A copy of this letter is attached as Exhibit 2.

12. By letter dated May 3, 2010, plaintiff requested expedited processing and a fee waiver. A copy of this letter is attached as Exhibit 3.

13. Plaintiff has received no written response from defendant. Defendant has not provided the records, nor has it provided reasons for withholding the records. Plaintiff has a right to response by the agency and access to the requested information under 5 U.S.C. § 552(a)(3), and there is no legal basis for defendant's denial of such access.

14. Defendant is in violation of FOIA because it failed to respond to plaintiff's request for expedited processing. 5 U.S.C. § 552(a)(6)(E)(ii)(I) and 22 C.F.R. 171.12(b).

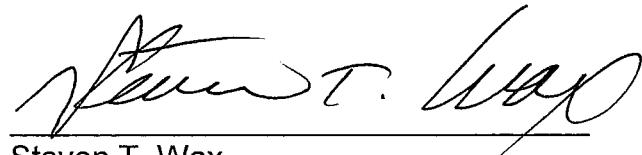
15. The failure of defendant to comply with the time limits of 5 U.S.C. § 552(a)(6)(A)(i) and 5 U.S.C. § 552(a)(6)(E)(ii)(I) entitles plaintiff to a fee waiver from the agency. 5 U.S.C. § 552(a)(4)(A)(viii).

WHEREFORE, plaintiff requests this Court:

- (1) Order defendant to provide access to the requested documents within ten business days;
- (2) Order defendant to grant a waiver of search and duplication fees as provided for in 5 U.S.C. § 552(a)(4)(A)(viii);

- (3) Expedite this proceeding as provided for in 28 U.S.C. § 1657; and
- (4) Grant such other and further relief as the court may deem just and proper.

Respectfully submitted this 1st day of July, 2010.



Steven T. Wax,
Federal Public Defender

EXHIBIT 1

STEVEN T. WAX
Federal Public Defender
STEPHEN R. SADY
Chief Deputy Defender
Steven Jacobson
Bryan E. Lessley ▲
Nancy Bergeson
Christopher J. Schatz
Ellen C. Pitcher
Craig Weinerman ▲
Mark Bennett Weintraub ▲
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DISTRICT OF OREGON**

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Branch Offices:

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Harold DuCloux III
Alison M. Clark
Brian Butler+
Thomas E. Price
Lynn Deffebach ★
Michelle Sweet ★

▲ Eugene Office
+ Medford Office

* Research/Writing Attorney

March 10, 2010

Margaret P. Grafeld
Director, Office of IRM Programs and Services, SA-2
Department of State
5th Floor
Washington, DC 20522-6001

Re: Freedom of Information Act Request/Privacy Act

Dear Ms. Grafeld:

This is a Freedom of Information Act and Privacy Act request for copies of the following documents or data. This request includes any unclassified sections of classified documents or other data that can be segregated from the classified original.

Any and all information including, but not limited to, reports, notes, communications, the results of any intelligence collected, written or otherwise, regarding or related to Pirouz Sedaghaty, a.k.a., Pete Seda (please find Privacy Act authorization enclosed).

Any and all information including, but not limited to, reports, notes, communications, written or otherwise, regarding or related to the Islamic charity, Al Haramain, both international and domestic.

Any and all information including, but not limited to, reports, notes, communications, written or otherwise, regarding the United States' involvement, direct or indirect, in funding Chechen separatists involved in combat against Russian forces from 1990 to the present.

Any and all information including, but not limited to, reports, notes, communications, written or otherwise, regarding the United States' diplomatic

March 10, 2010

Page 2

discussions with the Kingdom of Saudi Arabia regarding the Islamic Charity, Al Haramain.

Any and all information including, but not limited to, reports, notes, communications, written or otherwise, regarding or related to the Saudi government's use of Islamic charities, specifically Al Haramain, to fund Chechen separatists.

Any and all information including, but not limited to, reports, notes, communications, written or otherwise, regarding or related to the interrogations of Sami Al Sanad, Soliman al-Buthe, Aqueel al Aqueel, and Mansour al Kadi or any other Al Haramain official by the Saudi government.

Any and all information including, but not limited to, Saudi government documents, reports, notes, communications, written or otherwise, regarding or related to the Saudi Joint Relief Committee (SJRC), and the formation of the SJRC by order of King Fahd, specifically between the time period 1999 and 2005. This request includes, but is not limited to the following SJRC officials: Dr. Al-Suwailem, HRH Prince Naif, HRH Prince Turki Bin Fahd. To assist you in your search for information, I am including a declaration of Dr. Al-Suwailem, a former official of the SJRC, regarding the formation and function of the SJRC.

Any and all information including reports, notes, communications, intelligence collected, written or otherwise, regarding any investigation of the disbursement of the funds collected by Al Haramain USA in 2000, specifically \$150,000 donated by Egyptian citizen Mr. Mahmoud Talaat El Fiki.

Any and all communications, written or otherwise, between the United States government and the Kingdom of Saudi Arabia regarding the designation of any Al Haramain office or individuals, including Aqueel al Aqueel, Soliman al Buthe, Mansour al Kadi, designated organization or individual.

Any and all reports, testimony, briefings, etc., provided to the United States Congress regarding the United States policy with regard to Chechnya, particularly between 1993 and the present.

In order to help to determine my status to assess fees, you should know that I am the Chief Investigator for the Federal Public Defender Office in the District of Oregon. I hold a secret level security clearance. Our client is an indigent defendant in a criminal matter in this district and the documents requested are necessary for the defense of our client. I request a waiver of all fees for this request. Disclosure of the requested information to me is in the public interest because it is likely to contribute

March 10, 2010
Page 3

significantly to public understanding of the operations or activities of the government and is not primarily in my commercial interest.

Sincerely,



William Teesdale
Chief Investigator
Federal Public Defender's Office

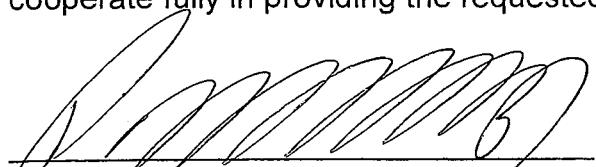
WT/sls

PRIVACY ACT CONSENT FORM

Margaret P. Grafeld
Director, Office of IRM Programs and Services, SA-2
Department of State
5th Floor
Washington, DC 20522-6001

I hereby authorize the Federal Public Defender and its staff to request and receive, pursuant to the provisions of the Privacy Act, for the purpose of legal representation on my behalf, documents or information relating in any manner to me in the possession of the United States government. I expressly further consent to the release of such information by custodians and possessors of such information to my representative, the Federal Public Defender.

This authority includes, but is not limited to, the inspection, copying, and receipt of documents, photographs, and all other written, recorded, or digitally-stored information and the receipt of oral information. I hereby request that all persons cooperate fully in providing the requested information.



Pirouz Sedaghaty a/k/a Pete Seda
c/o Federal Public Defender's Office
101 SW Main Street, Suite 1700
Portland, OR 97204
(503) 326-2123
ATTN: William Teesdale, Attorney and
Chief Investigator

Dated:

3/3/10

EXHIBIT 2

STEVEN T. WAX
Federal Public Defender
STEPHEN R. SADY
Chief Deputy Defender
Steven Jacobson
Bryan E. Lessley ▲
Nancy Bergeson
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FEDERAL PUBLIC DEFENDER

DISTRICT OF OREGON

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Thomas E. Price
Lynn Deffebach ★
Michelle Sweet ★

▲ Eugene Office
+ Medford Office

* Research/Writing Attorney

April 6, 2010

Margaret P. Grafeld
Director, Office of IRM Programs and Services, SA-2
Department of State
5th Floor
Washington, DC 20522-6001

Re: Freedom of Information Act Request/Privacy Act

Dear Ms. Grafeld:

On March 10, 2010, I sent to you a Freedom of Information Act Request and Privacy Act Request, a copy of which is enclosed, but have not heard from you or your representative. Please contact me at your earliest convenience with the status of my pending request.

Sincerely,



William J. Teesdale
Federal Public Defender Chief Investigator

STEVEN T. WAX
Federal Public Defender
STEPHEN R. SADY
Chief Deputy Defender
Steven Jacobson
Bryan E. Lessley ▲
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March 10, 2010

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5th Floor
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March 10, 2010
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In order to help to determine my status to assess fees, you should know that I am the Chief Investigator for the Federal Public Defender Office in the District of Oregon. I hold a secret level security clearance. Our client is an indigent defendant in a criminal matter in this district and the documents requested are necessary for the defense of our client. I request a waiver of all fees for this request. Disclosure of the requested information to me is in the public interest because it is likely to contribute

March 10, 2010
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Sincerely,



William Teesdale
Chief Investigator
Federal Public Defender's Office

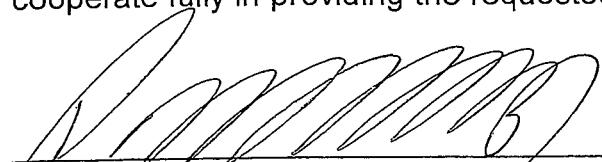
WT/sls

PRIVACY ACT CONSENT FORM

Margaret P. Grafeld
Director, Office of IRM Programs and Services, SA-2
Department of State
5th Floor
Washington, DC 20522-6001

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This authority includes, but is not limited to, the inspection, copying, and receipt of documents, photographs, and all other written, recorded, or digitally-stored information and the receipt of oral information. I hereby request that all persons cooperate fully in providing the requested information.



Prouz Sedaghaty a/k/a Pete Seda
c/o Federal Public Defender's Office
101 SW Main Street, Suite 1700
Portland, OR 97204
(503) 326-2123

ATTN: William Teesdale, Attorney and
Chief Investigator

Dated: 3/3/10

EXHIBIT 3

STEVEN T. WAX
Federal Public Defender
STEPHEN R. SADY
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Thomas E. Price
Lynn Deffebach ★
Michelle Sweet ★

▲ Eugene Office
+ Medford Office

★ Research/Writing Attorney

May 3, 2010

VIA FEDERAL EXPRESS

Margaret P. Grafeld
Director, Office of IRM Programs and Services, SA-2
Department of State
5th Floor
Washington, DC 20522-6001

Re: **Expedited Processing Request and Assertion of Right to Waive Fee for Pending Request Sent March 10, 2010**

Dear Ms. Grafeld:

I am writing to request expedited processing of documents responsive to our March 10, 2010, Freedom of Information Request for State Department documents. As of the date of this letter, we have received no response from the State Department. I have attached an affidavit which explains our urgent and compelling need to obtain these documents quickly. The affidavit will clearly demonstrate that Mr. Seda "faces grave punishment," and we have "reason to believe the documents may assist in his defense." *Aguilera v. FBI*, No. 94-2723 (D.D.C. Jan. 31, 1996) (requiring accelerated processing of records relevant to Plaintiff's pending criminal case).

I do understand that our request for documents could require a significant amount of search time, so I am modifying the initial March 10, 2010, request by dividing it into two parts:

- (1) information, responsive to our March 10, 2010 request, that is created, stored or retrievable by electronic means including all information and data stored on a hard drive or disk and e-mail communications that contain the following terms:

May 3, 2010
Page 2

*Pete Seda / Pirouz Sedaghaty
Soliman Al-Buthe
Sami Al-Sanad
Mansour Al-Kadi
Aqeel Al-Aqil
Mahmoud Talat El Fiki
Hisham Al-Mashari
Al Rajhi bank
Saudi Joint Relief Committee (SJRC)
AHF-Oregon*

(2) information, responsive to our initial March 10, 2010, request, that is not provided pursuant request (1).

I am segregating this request so that you can send all of the easily obtainable documents immediately, and then send documents which may take more time to obtain separately.

In accordance with President Obama's Memorandum issued January 21, 2009, to all agency heads on the "New Era of Open Government," we anticipate that substantially more information will be available though our request today than it would have been two years ago. It is especially important here that we receive all of the information that is no longer exempt and/or information that is no longer *properly* classified.

Additionally, pursuant to 5 U.S.C. § 552 as amended by Public Law No. 110-175, "an agency shall not assess search fees (or in the case of a requester described under clause (ii)(II), duplication fees) under this subparagraph if the agency fails to comply with any time limit under paragraph (6)." Paragraph (6) includes a 20 day time limit for agency response to a request for information. A month has now passed since our request was sent to your agency, and the lack of response precludes your agency from charging fees pursuant to request.

I look forward to your response. Thank you for your assistance.

Sincerely,



William J. Teesdale
Federal Public Defender's Office
Chief Investigator

WT/sls
cc: Steven T. Wax, Federal Defender
Lawrence Matasar, Esquire

May 3, 2010
Page 3

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**Lawrence Matasar, OSB No. 74209
621 SW Morrison Street, Suite #1025
Portland, OR 97205
Tel: (503) 222-9830
Email: larry@pdxlaw.com**

Attorneys for Defendant

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

PIROUZ SEDAGHATY,

Defendant.

CR 05-60008 HO

**DECLARATION OF WILLIAM
TEESDALE, CHIEF INVESTIGATOR,
FEDERAL PUBLIC DEFENDER'S
OFFICE**

I, William Teesdale, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief:

1. I am currently employed as the Chief Investigator for the Federal Public Defender's Office for the District of Oregon. I am also a member of the bars of Oregon and England. Since August 22, 2007, I have been one of the investigators assigned to work on the above-captioned case. The information in this declaration is based upon unclassified information known to me from my investigation activity, review of documents, and interviews of witnesses both inside and outside the United States.

2. Mr. Sedaghaty is charged with one count of conspiracy to defraud the United States government and one count of filing a false tax return. The case is currently scheduled for trial beginning on June 7, 2010. If Mr. Sedaghaty is convicted, he faces a possible sentence of eight years' imprisonment.

3. I made a FOIA and Privacy Act request for information from the Department of State on March 10, 2010, for information relevant to the *Sedaghaty* case.

4. I have reason to believe that the State Department possesses information that is directly relevant to the issues involved in the *Sedaghaty* case and that some of that information is exculpatory.

5. Such information includes, but is not limited to the following information:

- a) Interview reports of Al Haramain officials regarding the El Fiki transaction including, but not limited, to interviews with Soliman Al Buthe, Aqueel Al Aqueel, Mansour Al Kadi and Sami al Sanad.
- b) Al Haramain financial records relating to the El Fiki transaction.
- c) Saudi Arabian government records regarding the control exercised over the El Fiki transaction and Al Haramain by high Saudi officials. Saudi Arabian government records regarding the control exercised over the El Fiki transaction by the Saudi Joint Relief Committee (SJRC) and high Saudi officials.

- d) Al Haramain documents demonstrating legitimate humanitarian work in Chechnya during late 1999 and 2000.
- e) Documents showing U.S. government funding of Chechen separatists groups.

6. The documents identified in paragraph 6 are essential and necessary to establishing that Mr. Sedaghaty is innocent of the allegation that he conspired to send money to the Chechen mujahadeen.

Executed this 2 day of May, 2010.



William Teesdale